

1                   **JOINT RULES RESOLUTION ON PERFORMANCE NOTES**

2                                   2013 GENERAL SESSION

3                                   STATE OF UTAH

4                   **Chief Sponsor: Jerry W. Stevenson**

5                                   House Sponsor: Spencer J. Cox

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7   **LONG TITLE**

8   **General Description:**

9           This resolution modifies provisions in the joint Legislative Rules that govern the use of  
10 performance notes on proposed legislation.

11 **Highlighted Provisions:**

12           This resolution:

- 13           ▶ provides definitions;
- 14           ▶ clarifies that performance notes are published with the legislation, rather than being  
15 attached to the legislation;
- 16           ▶ provides that a performance note, like a fiscal note, is not an official part of the  
17 legislation; and
- 18           ▶ makes technical and organizational modifications.

19 **Special Clauses:**

20           None

21 **Legislative Rules Affected:**

22 AMENDS:

23           **JR4-2-404**

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25 *Be it resolved by the Legislature of the state of Utah:*

26           Section 1. **JR4-2-404** is amended to read:

27           **JR4-2-404. Performance Review Notes -- Review of Performance Measures.**

28           (1) As used in this section:

29           (a) (i) "New agency" means:

- 30 (A) a state governmental entity that did not previously exist;
- 31 (B) a governmental entity that requires a new appropriation for new funding;
- 32 (C) a governmental entity that is modified by legislation to add significant services or
- 33 benefits that were not previously offered by the governmental entity; or
- 34 (D) a governmental entity that is modified by legislation to substantially expand the
- 35 scope of individuals or entities that are entitled to receive the services or benefits offered by the
- 36 governmental entity.
- 37 (ii) "New agency" does not mean a governmental entity that has been renamed or
- 38 moved to another organizational position within that branch of government unless the
- 39 governmental entity meets the criteria in Subsection (1)(a)(i)(C) or (D).
- 40 (b) (i) "New program" means a program:
- 41 (A) created by statute that did not previously exist;
- 42 (B) that requires a new appropriation or an increased appropriation for the purpose of
- 43 adding significant services or benefits that were not previously offered;
- 44 (C) that is modified by legislation to add significant services or benefits that were not
- 45 previously offered by the program; or
- 46 (D) that is modified by legislation to substantially expand the scope of individuals or
- 47 entities that are entitled to receive the services or benefits offered by the program.
- 48 (ii) "New program" does not mean a program that has been renamed or moved to
- 49 another organizational position within that branch of government unless the governmental
- 50 entity meets the criteria in Subsection (1)(b)(i)(C) or (D).
- 51 (c) "Performance note" means the statement of performance measures and information
- 52 that may be required to be printed with certain legislation according to the requirements of this
- 53 rule.
- 54 (2) (a) When the Legislative Fiscal Analyst receives the electronic copy of approved
- 55 legislation from the Office of Legislative Research and General Counsel, the Legislative Fiscal
- 56 Analyst shall, within three business days, review and analyze the legislation to determine if it
- 57 creates a new program or a new agency.

58 (b) If the Legislative Fiscal Analyst determines that the legislation creates a new  
59 agency or a new program, the Legislative Fiscal Analyst shall:

60 (i) notify the sponsor of the legislation that the legislation qualifies for a performance  
61 note;

62 (ii) notify the governmental entity that will supervise the new agency, or the  
63 governmental entity that will administer the new program, that the governmental entity must  
64 submit a performance note that meets the ~~[requirement]~~ requirements of Subsection ~~[(4)]~~ (6) to  
65 the Legislative Fiscal Analyst within three business days; and

66 (iii) prepare a ~~[statement to be attached to the legislation containing]~~ notice that  
67 contains the information required by Subsection (2)(c) and print the notice with the legislation.

68 (c) The ~~[statement]~~ notice shall:

69 (i) disclose that a performance note is required, disclose the name of the governmental  
70 entity required to provide the performance note, and disclose the date on which the  
71 performance note is to be provided by the governmental entity; or

72 (ii) disclose that a performance note is not required because the legislation does not  
73 create a new program or new agency.

74 (d) (i) The Legislative Fiscal Analyst may extend the deadline for the governmental  
75 entity's submission of the performance note if:

76 (A) the governmental entity requests that the deadline be extended to a date certain in  
77 writing before the performance note is due; and

78 (B) the sponsor of the legislation agrees to extend the deadline.

79 (ii) If the deadline is extended, the Legislative Fiscal Analyst shall indicate the  
80 extended deadline ~~[on the legislation]~~ as part of the performance note that is ultimately printed  
81 with the legislation.

82 (3) If the sponsor of the legislation disputes the Legislative Fiscal Analyst's  
83 determination as to whether a performance note is required, the sponsor shall contact the  
84 Legislative Fiscal Analyst to discuss that disagreement and provide evidence, data, or other  
85 information to support a different determination.

86           ~~[(e)(i)]~~ (4)(a) When a governmental entity provides a performance note to the  
87 Legislative Fiscal Analyst, the sponsor of the legislation shall either approve the release of the  
88 performance note or reject the performance note.

89           ~~[(ii)]~~ (b) If the sponsor approves the performance note provided by the governmental  
90 entity, the Legislative Fiscal Analyst shall ~~[attach]~~ print the performance note ~~[to]~~ with the  
91 legislation.

92           ~~[(iii)]~~ (c) If the sponsor rejects the performance note provided by the governmental  
93 entity, the Legislative Fiscal Analyst shall ~~[attach]~~ print the following ~~[to]~~ with the legislation:

94           ~~[(A)]~~ (i) the performance note provided by the governmental entity, with a notation that  
95 the sponsor rejected the submission; and

96           ~~[(B)]~~ (ii) if the sponsor provides an alternative performance note to the Legislative  
97 Fiscal Analyst within three business days, the alternative performance note, with a notation that  
98 the sponsor provided the alternative note due to the sponsor's rejection of the governmental  
99 entity's submission.

100           ~~[(f)]~~ (5) If the governmental entity does not provide a performance note by the  
101 submission deadline, the Legislative Fiscal Analyst shall ~~[attach]~~ print a performance note ~~[to]~~  
102 with the legislation that indicates only that the governmental entity did not submit performance  
103 measures by the submission deadline.

104           ~~[(3) If the sponsor of the legislation disputes the Legislative Fiscal Analyst's~~  
105 ~~determination as to whether a performance note is required, the sponsor shall contact the~~  
106 ~~Legislative Fiscal Analyst to discuss that disagreement and provide evidence, data, or other~~  
107 ~~information to support a different determination.]~~

108           ~~[(4)]~~ (6) A performance note shall contain the following information:

109           (a) the name of the governmental entity submitting the performance note, as applicable;

110           (b) the names and titles of the individuals who prepared the performance note; and

111           (c) a statement of performance measures that:

112           (i) explains the purpose and duties of the new program or agency;

113           (ii) lists the services that will be provided by the new program or agency;

114 (iii) lists the goals and proposed impacts that the new program or agency intends to  
115 achieve within one, two, and three years;

116 (iv) lists the resources and steps required to achieve the goals and proposed impacts;

117 (v) lists the benchmarks that the new program or agency will monitor to measure  
118 progress toward the goals and outcome;

119 (vi) lists the performance measures that will be used to evaluate progress toward the  
120 goals and proposed impacts; and

121 (vii) states how information on progress and performance measures will be gathered in  
122 a reliable, objective fashion.

123 (7) The performance note is not an official part of the legislation.

124 [~~5~~] (8) After legislation that creates a new program or a new agency has gone into  
125 effect, the Legislative Auditor General shall, subject to the procedures and requirements of  
126 Section 36-12-15:

127 (a) provide an outline of best practices to the governmental entity that administers the  
128 new program or to the new agency;

129 (b) include in the outline information to assist that governmental entity or new agency  
130 with the creation of:

131 (i) policies that promote best practices;

132 (ii) performance measures; and

133 (iii) data collection procedures; and

134 (c) for a new program or a new agency that was created by legislation where the  
135 governmental entity failed to provide a performance note:

136 (i) provide a notice to the governmental entity that administers the new program or to  
137 the new agency that the governmental entity or agency is required to submit a performance note  
138 to the Legislative Auditor General within 30 calendar days of the date of the notice;

139 (ii) retain the performance note that is received from the governmental entity or new  
140 agency and forward a copy of the note to:

141 (A) the primary sponsor of the legislation;

142 (B) the opposite house sponsor of the legislation;  
143 (C) the President of the Senate and Speaker of the House; and  
144 (D) the Senate minority leader and House minority leader; and  
145 (iii) if the governmental entity or new agency fails to provide a performance review  
146 note within the required deadline, provide notice to those listed in Subsection [~~(5)~~] (8)(c)(ii)  
147 that a performance note was requested from, but was not received from, the governmental  
148 entity that administers the new program or the new agency.  
149 [~~(6)~~] (9) The Legislative Auditor General may use the performance note in its review  
150 of new programs and agencies under Section 36-12-15.